

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 In re: Case No. 12-12020(MG)
6 RESIDENTIAL CAPITAL, LLC,
7 et al.,
8 Debtors.

9 -----X

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11
12 30(b)(6) DEPOSITION OF RESIDENTIAL CAPITAL, LLC
13 and AFFILIATED DEBTORS
14 by TAMMY HAMZEHPOUR
15 New York, New York
16 October 18, 2013

17
18 Yellow Highlighting = JSN Designation

Pink Highlighting = Plaintiff's Counter-Designation

19 Orange Highlighting = Joint Designation

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22 Reported by:
Bonnie Pruszyński, RMR
23 JOB NO. 67067
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October 18, 2013
10:05 a.m.

30(b)(6) deposition of Residential
Capital, LLC and affiliated debtors by TAMMY
HAMZEHPOUR, held at the offices of Morrison &
Foerster , 1290 Avenue of the Americas, New York,
New York, before Bonnie Pruszynski, a Registered
Professional Reporter, Registered Merit Reporter,
Certified LiveNote Reporter and Notary Public of
the State of New York.

A P P E A R A N C E S:

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1
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1 T. Hamzhepour

2 THE VIDEOGRAPHER: This is the start
3 of tape labeled number one of the videotape
4 deposition of Tammy Hamzhepour in the matter
5 of In Re: Residential Capital, LLC, et al,
6 in the United States Bankruptcy Court for
7 the Southern District of New York.

8 This deposition is being held at
9 1290 Avenue of the Americas, New York,
10 New York, on October 18th, 2013, at
11 approximately 10:05 a.m.

12 My name is Robert Rinkewich from TSG
13 Reporting, Incorporated, and I am the legal
14 video specialist. The court reporter is
15 Bonnie Pruszyński in association with TSG
16 Reporting.

17 Will counsel please introduce
18 yourself?

19 MR. KERR: Charles Kerr of Morrison &
20 Foerster on behalf of the debtor and the
21 witness.

22 MR. LAWRENCE: Alex Laurence from
23 Morrison & Foerster.

24 MS. MARINES: Jennifer Marines from
25 Morrison & Foerster on behalf of the debtor.

1 T. Hamzehpour

2 MR. MARINUZZI: Lorenzo Marinuzzi,
3 Morrison & Foerster, on behalf on the
4 debtors.

5 MS. WU: Jodi Wu from Kirkland &
6 Ellis on behalf of Ally.

7 MR. KAUFMAN: Philip Kaufman, Kramer
8 Levin, on behalf of the creditors committee.

9 MR. HAO: William Hao from Alston &
10 Bird on behalf of Wells Fargo Bank.

11 MR. KOCHMAN: David Kochman from Reed
12 Smith on behalf of Wells Fargo.

13 MS. DeKRAKER: Hailey DeKraker of
14 Milbank, Tweed, Hadley & McCloy on behalf of
15 the junior secured noteholders.

16 MR. PERRY: Dan Perry from Milbank
17 Tweed. I'm with Ms. DeKraker.

18 THE VIDEOGRAPHER: Do we have
19 somebody on the telephone?

20 MR. KERR: Yeah, there is.

21 Everybody who is on the phone, if you
22 could note your appearance.

23 MR. BINGHAM: Bob Bingham with Zolfo
24 Cooper.

25 MR. POLSKI: Larry Polski with Cleary

1 T. Hamzhepour

2 Gottlieb.

3 THE VIDEOGRAPHER: Will the court
4 reporter please swear in the witness.

5 (Witness sworn.)

6 TAMMY HAMZEHPOUR,

7 called as a witness, having been first
8 duly sworn, was examined and testified
9 as follows:

10 EXAMINATION

11 BY MR. PERRY:

12 Q Good morning, Ms. Hamzhepour.

13 A Good morning.

14 Q Have you ever been deposed before?

15 A Yes.

16 Q How many times?

17 A Twice.

18 Q Have you been deposed in this case
19 before?

20 A Yes.

21 Q And were both instances in this case?

22 A No.

23 Q Okay. What was the other deposition?

24 A The other deposition was a number of
25 years ago in connection with a business

1 T. Hamzehpour

2 transaction that we did not complete, completely
3 unrelated to this.

4 Q Okay. So I'm not going to go over
5 the -- and you are an attorney; correct?

6 A Yes.

7 Q I'm not going to go over the ground
8 rules in great detail, but a couple of important
9 rules.

10 One, if you don't understand a
11 question that I am asking, please ask me to
12 rephrase, let me know, so I can clarify the
13 question, make sure we are both on the same page.

14 From time to time, counsel and, you
15 know, probably literally everybody at this table,
16 will object. Unless the basis of the objection is
17 privilege, I would ask that you -- you answer the
18 question.

19 If you have a concern that my
20 question may cause you -- answering my question
21 may cause you to disclose privileged information,
22 you are entitled to ask for a break and consult
23 with your counsel about that. Otherwise, I would
24 ask that you answer any pending questions before
25 we take a break.

1 T. Hamzehpour

2 On the subject of breaks, just let me
3 know when you want to break. This is not an
4 endurance contest, and I am happy to break as
5 frequently as you'd like.

6 A Okay.

7 Q Do you have any questions for me
8 before we start?

9 A No.

10 Q Before you is a copy of Westman
11 Deposition Exhibit 1. It's a 30(b)(6) notice
12 served on Residential Capital, LLC and its
13 affiliated debtors.

14 Do you understand, ma'am, that you
15 are appearing today pursuant to this notice?

16 A Yes.

17 Q And are you in fact authorized to
18 give sworn testimony on behalf of Residential
19 Capital, LLC and its affiliated debtors?

20 A Yes.

21 Q And just to make sure the record is
22 clear, am I correct that you will be giving
23 testimony with respect to deposition topic two,
24 sub-point four?

25 MR. KERR: It's on page nine.

1 T. Hamzehpour

2 Q It starts on page nine.

3 A Yes.

4 Q And am I correct that you will be
5 giving deposition testimony on topic two, sub six?

6 A No. It's the MBIA settlement.

7 Q No.

8 MR. KERR: No, no.

9 MR. KOCHMAN: Sub six.

10 MR. KERR: Not sub six. Two, six up
11 here.

12 A Sorry about that, romanette six.

13 MR. KERR: Romanette six.

14 A Romanette six. Yes, that is correct.

15 Q Okay. And you will -- you are also
16 authorized to give testimony on topic four?

17 A Yes.

18 Q And topic 22; correct?

19 A Yes.

20 Q As to topic 22, do you have any
21 information with respect to the subject matter
22 identified in topic 22, in addition to -- in
23 addition to what might be gleaned from the face of
24 the contractual arrangements between the JSNs and
25 the debtors?

1 T. Hamzhehpour

2 MR. KERR: Objection.

3 A I -- I don't -- I'm not sure I
4 understand what you are asking. I know there are
5 contractual agreements between the debtors and the
6 junior secured noteholders, but I don't -- I don't
7 know what you mean by "additional information."

8 Q Okay. You understand that there is a
9 dispute about whether Executive Trustee Services
10 LLC and Equity Investment I LLC are obligors under
11 the JSN security agreement and indenture; correct?

12 A Yes. We discussed that.

13 Q And one could simply go look at the
14 JSN security agreement and indenture and come up
15 with the answer about whether these two entities,
16 Executive Trustee Services LLC and Equity
17 Investment I LLC, are obligors under that
18 agreement; right?

19 A Yes.

20 Q And the debtors have one reading of
21 the agreement, and the JSNs have a different
22 reading of the agreement; right?

23 A That's what I have been told.

24 Q Okay. And putting aside just simply
25 reading the agreements, is there any information

1 T. Hamzehpour

2 that you have that would suggest that Executive
3 Trustee Services LLC and Equity Investment I LLC
4 are not obligors under the JSN security
5 agreement/indenture?

6 MR. KERR: Objection.

7 A I'm not aware of anything outside the
8 bounds of the documents.

9 Q In other words, so I take it you are
10 not aware of any negotiations between
11 representatives of the company and representatives
12 of the JSNs in connection with the security
13 agreement or the indenture that would bear on the
14 question of whether Executive Trustee Services LLC
15 and Equity Investment I LLC are obligors under
16 that agreement?

17 MR. KERR: Objection.

18 A That's correct.

19 (Hamzehpour Exhibit 1 marked for
20 identification as of this date.)

21 MR. KERR: What's this being marked
22 as?

23 MR. PERRY: Hamzehpour 1.

24 Q Before you -- before you,
25 Ms. Hamzehpour, is Hamzehpour Deposition

1 T. Hamzhehpour

2 Exhibit 1. It's an e-mail from Barbara Westman to
3 you dated March 26, 2010, and it attaches a number
4 of documents.

5 Can you turn to the first attachment
6 to the document, which is a document entitled?
7 "RFC/GMACM Debt Forgiveness Procedures."

8 A Yes.

9 Q And I'm going to ask you to review
10 the document, and my question is: Is this an
11 accurate summary of the pre-petition policies and
12 procedures with respect to debt forgiveness for
13 the debtors?

14 A There is more detail in here than I
15 would be normally aware of, in terms of what the
16 accounting team does to monitor these, but this is
17 my understanding of how it worked, that the
18 accounting team had processes in place to monitor
19 upcoming changes in capital that might require or
20 seem to indicate a need for debt forgiveness,
21 bring those up through the CFO office for
22 approval.

23 Q Okay. And you have nothing to
24 believe, based on your review of the document,
25 that anything in here is inaccurate --

1 T. Hamzhepour

2 A Right.

3 Q -- correct?

4 A Right.

5 Q Now, I want to focus on the various
6 solvency or net worth requirements.

7 A Um-hum.

8 Q Did you understand that RFC had --
9 had net worth requirements for HUD and various
10 state regulators?

11 A Yes.

12 Q And similarly, did you understand
13 that GMACM had net worth requirements from Fannie
14 Mae and various lenders?

15 A Yes.

16 MR. KERR: Objection.

17 Q And do you believe those
18 requirements -- well, strike that.

19 Is -- directing your attention to the
20 spreadsheet immediately following the document
21 that we have just been focused on, is this an
22 example of the accounting staff's analysis of
23 RFC's compliance with its various regulatory net
24 worth requirements?

25 A That's what it appears to be, yes.

Plaintiff's
Objection
14:12-16:
objection to
form; vague
and
ambiguous

Plaintiff's
Objection
14:17-25:
lack of
personal
knowledge
(FRE 602);
lack of
foundation
(FRE 602,
901, 903)

1 T. Hamzhehpour

2 Q Okay. And directing your attention
3 to the next attachment, which is separated by
4 the --

5 A Separated by a blue sheet.

6 Q -- blue sheets.

7 A Okay.

8 Q If you go -- flip over to the next
9 page. Does this document appear to be --

10 MR. KERR: What -- what page number
11 are you referring to?

12 MR. PERRY: Exam 10362106. I guess
13 this is a spreadsheet printed in native
14 format, and so it all bears the same Bates
15 label.

16 MR. KERR: So what -- what -- I'm
17 sorry, what page within this?

18 MR. PERRY: So I am looking at the
19 third page, which starts with a column
20 entitled "GMAC Mortgage, LLC Net Worth
21 Tests," and then reflects a summary of
22 requirements and goes through it.

23 Q Ms. Hamzhehpour, my question is: Does
24 this appear to be an accurate summary of the
25 various net worth requirements that GMACM was

Plaintiff's
Objection
15:23-16:12
Lack of
personal
knowledge
(FRE 602);
lack of
foundation
(FRE 602,
901, 903)

1 T. Hamzehpour

2 required to subscribe to in 2010?

3 MR. KERR: Objection.

4 A It appears to. I couldn't tell you
5 if it's complete or not. There were a number of
6 requirements, and I don't remember them all in
7 detail, but it appears to be pretty comprehensive.

8 Q And this is -- these spreadsheets
9 analyzing net worth, compliance with net worth
10 requirements, you understood that the accounting
11 department prepared and monitored compliance with
12 those requirements in the ordinary course of
13 business?

14 A Yes, that's true.

15 Q Now, as I understand it, if there was
16 an expectation or a concern that either RFC or
17 GMACM or other entities would fail one of the
18 various net worth requirements, debt forgiveness
19 was one of the ways that the debtors used to put
20 that entity in compliance with the net worth
21 requirements; is that correct?

22 A I think it's -- the CFO's office
23 would look at that, and decide whether or not
24 there were additional capital amounts that needed
25 to be allocated to that company to keep -- to

1 T. Hamzehpour

2 maintain those requirements, yes.

3 Q And that was done beginning in 2008;
4 correct?

5 A There were events, I'm sure,
6 different times over the years when that was
7 required. It, I don't believe, only began in
8 2008. I wouldn't -- I wouldn't know exactly, but
9 I don't think it was a new concept --

10 Q Okay.

11 A -- in 2008.

12 Q Do you know, other than RFC and
13 GMACM, which of the debtor entities had specific
14 net worth requirements?

15 A Any of them that held certain state
16 licenses would have the corresponding capital
17 requirements in that state's regulation. So, for
18 example, Homecomings Financial, during the time
19 that it held state mortgage banking licenses,
20 would have had capital -- regulatory capital
21 requirements.

22 Q Would -- would Residential Capital,
23 LLC have had net worth requirements?

24 A Not at the state level, but it had
25 requirements in its credit agreements.

Plaintiff's
Objection
17:3-11:
lack of
personal
knowledg
e (FRE
602)

1 T. Hamzhepour

2 Q Okay.

3 A And with Fannie Mae.

4 Q What about Executive Trustee Services
5 LLC?

6 A Yes. I think they held some state
7 licenses.

8 Q And what were the debt facilities for
9 the debtor entities that had net worth
10 requirements?

11 A The GMAC revolver and line of credit,
12 we had at one point a bank syndicate agreement
13 that had net worth requirements in it. We had an
14 MSR facility with Citi that -- a lot of the
15 funding facilities were pretty consistent
16 across-the-board, because all the lenders wanted
17 the same level of covenant protections.

18 Q And were there typically
19 cross-default provisions in the debt facilities?

20 A Yes.

21 Q And the -- the federal agencies, is
22 it true that the federal -- well, can you list the
23 federal agencies that had net worth requirements
24 for one or more of the debtors?

25 A HUD, and although they are not

1 T. Hamzhepour

2 federal agencies, the GSEs had some level of
3 capital requirement, Fannie, Freddie, and I think
4 Ginnie Mae, but Ginnie Mae's may have fallen
5 underneath HUD.

6 Q Before you is Westman Deposition
7 Exhibit 20. It's an amended and restated
8 intercompany advance agreement between Homecomings
9 and Residential Funding. Do you see in the upper
10 right corner there is a notation T222?

11 A Yes.

12 Q What is that?

13 A I would think that is a -- what we
14 would call a T number, which is a number that
15 identified a Treasury document, a funding
16 facility.

17 Q There are -- there's been a number of
18 these intercompany agreements produced in the
19 case. Are those housed typically with the
20 Treasury department?

21 A Yes.

22 Q And is it Joe Ruland who is in charge
23 of the Treasury department?

24 MR. KERR: Objection.

25 A Joe Ruland most recently, although he

1 T. Hamzhehpour

2 is no longer with the company. He went to one of
3 the purchasers of our assets back in February.

4 Q And who is currently the head of the
5 Treasury department?

6 A Paul Grande.

7 Q Does Mr. Grande have historical
8 knowledge of the intercompany agreements that were
9 put in place?

10 MR. KERR: Objection.

11 A I don't -- I don't know. He's been
12 with the company a number of years, so I imagine
13 he does, but I don't know personally.

14 Q Do you know when he started?

15 A No, I don't.

16 (Hamzhehpour Exhibit 2 marked for
17 identification as of this date.)

18 Q Before you is Hamzhehpour Deposition
19 Exhibit 2. It's an e-mail from James Young to Jim
20 Jones. You are copied, and it attaches or it
21 includes an e-mail below, and the document was
22 produced with an attachment, several attachments.

Plaintiff's
Objection
20:18-25:
23
Lack of
personal
knowledg
e (FRE
602)

23 A Not a lot of data here.

24 Q It's not my fault.

25 Let me ask you this: What -- do you

1 T. Hamzhepour

2 recall a forgiveness of roughly \$2 billion in
3 intercompany debt by ResCap to the benefit of RFC?

4 A I don't -- I don't have a specific
5 recollection of it. I mean, obviously that's what
6 this is talking about, and you can see that from
7 the top page of the e-mail.

8 Q Do you -- do you know why ResCap was
9 being asked to forgive \$2 billion of indebtedness
10 to RFC in or around March of 2008?

11 A Well, just based on this e-mail note,
12 it appears to be to replenish capital that's been
13 diminished by losses, operating losses at the RFC
14 level.

15 Q And was there a concern in -- in
16 March of 2008, that RFC could be in default of its
17 tangible net worth requirements?

18 A That is what it appears to say in
19 this e-mail. There was a concern, they needed the
20 2 billion to proved adequate net worth to cover
21 financial covenants, yes.

22 Q And just -- okay. And so, let me ask
23 you this: What -- what would happen -- what would
24 have happened to Residential Funding Company if it
25 defaulted on its tangible net worth requirements?

1 T. Hamzhepour

2 Let's start with governmental agencies, state and
3 federal agencies.

4 MR. KERR: Objection.

5 A My understanding is that if you
6 report a quarterly financial to your licensing
7 agencies that doesn't show the appropriate capital
8 level, you are in danger of having them pull your
9 license to do business in that state.

10 Q And would that be the case for
11 federal agencies as well?

12 MR. KERR: Objection.

13 A The federal agencies are different.
14 It's not a license to do business, it's an issuer
15 approval to do business with them, so it's a
16 different situation, and yes, if the company did
17 not maintain required capital levels, they would
18 be in danger of -- of having that issuer approval,
19 seller servicer approval, whatever the GSE calls
20 it, of having that revoked.

21 Q And as a practical matter, if
22 Residential Funding failed to maintain the
23 required capital levels in 2008, would it have
24 been able to continue to operate?

25 MR. KERR: Objection.

1 T. Hamzhepour

2 A In 2008, Residential Funding was not
3 conducting a large amount of business directly
4 with the GSEs any longer because of the fact that
5 the securitization markets had been shut down by
6 then in the financial crisis, so, the impact is
7 more a breach of financial covenants than it would
8 be a fallout for that particular company from
9 Fannie or Freddie.

10 Q And if it had breached its financial
11 covenants in March of 2008, would it have been
12 able to continue to operate?

13 MR. KERR: Objection. Asked and
14 answered.

15 A It would have triggered a
16 cross-default across all the company's credit
17 facilities, putting in danger everyone's ability
18 to operate.

19 Q And the forgiveness of the
20 indebtedness in 2008 by Residential Capital at
21 least alleviated the danger that you just
22 testified to; correct?

23 A Correct.

24 Q And so, the forgiveness of
25 indebtedness from the perspective -- strike that.

1 T. Hamzhehpour

2 From the perspective of Residential
3 Capital, LLC, it received something in exchange
4 for the forgiveness of indebtedness from its
5 subsidiary; right?

6 MR. KERR: Objection.

7 A I -- what it would have received is
8 additional equity in that subsidiary. That would
9 be the accounting impact of the debt forgiveness,
10 is they would have an increased equity.

11 Q And from -- just from a practical
12 standpoint, it also enabled the parent and the
13 subsidiary to continue to operate, not in breach
14 of its financial covenants and its debt
15 facilities; correct?

16 A That's -- that's a result of it, yes.

17 Q Do you know, was the -- did the Ally
18 board ultimately approve this particular debt
19 forgiveness in 2008?

20 A I believe they would have. I don't
21 have a specific recollection of it, but I believe
22 they would have.

23 (Hamzhehpour Exhibit 3 marked for
24 identification as of this date.)

25 Q Before you is Hamzhehpour Deposition

1 T. Hamzehpour

2 Exhibit 3. It purports to be a memorandum from
3 James Young to the ResCap Executive Committee. I
4 note that you are a copy.

5 The memo -- would you agree with me
6 that the memo appears to describe a proposed
7 forgiveness of \$2 billion in indebtedness from
8 GMAC Residential Holding Company, LLC for the
9 benefit of GMAC Mortgage, LLC?

10 A Could I just have a minute to read
11 it?

12 Q Yes, please.

13 A Okay. I'm sorry, now, what was the
14 question?

15 MR. PERRY: Can you re-read the
16 question.

17 (Record read.)

18 A Yes.

19 Q And did the forgiveness of
20 indebtedness requested in Hamzehpour Deposition
21 Exhibit 3 ultimately get consummated?

22 A Based on the executed consent of the
23 Executive Committee, it appears that it was, yes.

24 Q And similar to the forgiveness of
25 indebtedness that we just discussed between

1 T. Hamzehpour

2 Residential Capital, LLC and Residential Funding
3 Company, LLC, did this forgiveness of indebtedness
4 allow GMACM to continue to operate in 2009?

5 MR. KERR: Objection.

6 A What this request describes was a
7 negotiation with Fannie Mae as to where in the
8 organization it would test capital requirements.
9 I don't read that to mean that GMAC Mortgage's
10 ability to be a Fannie/Freddie issuer was in
11 danger. This was just to test the capital limits
12 at that level rather than at ResCap.

13 So, that is how I would read it. I
14 don't -- I don't see this as being one where
15 anything was being pulled away, just changing how
16 Fannie Mae looked at our financial statements.

17 Q Do you know why -- as I understand
18 the way the corporate structure works, there is an
19 intercompany balance between Residential Capital,
20 LLC and GMAC Residential Holding Company, LLC;
21 correct?

22 A I think that's right, yes.

23 Q And then an intercompany relationship
24 between GMAC Residential Holding Company, LLC and
25 GMACM; correct?

1 T. Hamzehpour

2 A That's right.

3 Q And the forgiveness contemplated here
4 was between GMAC Residential Holding Company, LLC
5 and GMACM; correct?

6 A That's what this describes, yes.

7 Q Do you know why there wasn't a
8 corresponding forgiveness of indebtedness between
9 Residential Capital, LLC and GMAC Residential
10 Holding Company, LLC?

11 A No, I don't know.

12 Q Now, from the perspective of GMAC
13 Residential Holding Company, LLC, what were the
14 benefits associated with the forgiveness
15 contemplated in Hamzehpour Deposition Exhibit 3?

16 MR. KERR: Objection.

17 A Residential Holding is -- it's just a
18 holding company, so, there wasn't any particular
19 benefit to it, I don't believe, although it -- it
20 has its own set of capital requirements. This
21 would have been in 2009. It was a guarantor under
22 the line of credit, the revolver, the bonds, so it
23 has its own -- you know, it has to maintain its
24 own solvency.

25 But I don't think it would have had

1 T. Hamzhepour

2 any particular benefit from this debt forgiveness.

3 Q Okay. And from the perspective --
4 you referenced solvency. From the perspective of
5 the entity forgiving indebtedness, did either you
6 or the accounting staff analyze whether, after
7 giving effect to the forgiveness, the forgiving
8 entity would remain solvent?

9 A I did not. It would not have been my
10 job to do that. The finance team probably did. I
11 don't know.

12 Q So, your belief is that the finance
13 team analyzed the solvency of the forgiving
14 entity?

15 MR. KERR: Objection.

16 A I think the finance team analyzed the
17 capital requirements in -- similar to the
18 documents that we looked at earlier. That --
19 that's the analysis they go through, is checking
20 to make sure they have maintained their required
21 capital levels.

22 Q And as you testified, GMAC
23 Residential Holding Company had -- in 2009, had
24 its own liquidity and solvency requirements under
25 at least the financing documents; correct?

Plaintiff's
Objection
28:12-21:
Lack of
personal
knowledge
(FRE 602)

1 T. Hamzhehpour

2 A Right. As a guarantor, it had to
3 comply with the financial covenants that were in
4 the document that were applicable to it, yes.

5 Q And as between GMAC Residential
6 Holding Company and GMACM, there were different
7 sets of borrowers, entities to which there was a
8 guarantee and the like associated with those two
9 entities; right?

10 MR. KERR: Objection.

11 Q It's a bad question, let me rephrase
12 it.

13 A Okay.

14 Q The -- as between GMACM and GMAC
15 Residential Holding Company, there were different
16 sets of creditors with respect to those two
17 entities; right?

18 A It's possible that GMACM had a
19 funding facility that its parent was not a party
20 to. I don't remember specifically.

21 (Hamzhehpour Exhibit 4 marked for
22 identification as of this date.)

23 Q Before you is Hamzhehpour Deposition
24 Exhibit 4. Can you take a moment to review it. I
25 have some questions. You will see there are

1 T. Hamzehpour

2 redactions.

3 A Sure.

4 Okay.

5 Q First of all, is -- whose text is --
6 is this your text that is in -- on the first page
7 of Hamzehpour Deposition Exhibit 4?

8 MR. KERR: What do you mean, "your
9 text"?

10 Q Did you write this? I mean, I can't
11 tell from the entire e-mail whether you are
12 cutting and pasting somebody else's writing or
13 whether you, yourself, wrote this. Do you know?

14 A I believe I wrote this.

15 Q Okay. Now, directing your attention
16 to the second-to-last full paragraph, you write:
17 "It's not in ResCap or the group's best interest
18 to release debt in excess of the amount needed to
19 meet the above goals, and for this reason the GMAC
20 Inc. board resolutions authorizing debt
21 forgiveness for certain ResCap subsidiaries refer
22 to releases up to a maximum amount."

23 Do you see that?

24 A Yes.

25 Q Okay. Why was it not in the -- well,

1 T. Hamzhepour

2 strike that.

3 Why was it in the interest of the
4 lender to limit the amount of debt forgiveness
5 being effected?

Plaintiff's
Objection
31:3-16:
objection to
form; vague
and
ambiguous

6 MR. KERR: Objection.

7 A In this instance, my recollection of
8 this is that the intercompany receivables from the
9 U.K. entities were one way that cash from
10 operations were repatriated back, so when there
11 was cash to be recovered, it would come back
12 through this repayment of intercompany.

13 So, if you are releasing some portion
14 of that because you need to for regulatory
15 reasons, there is no reason to release any more
16 than you need to.

17 Q Um-hum.

18 A That's what I take from this note,
19 and that's my recollection of what happened here.

20 Q Isn't that generally true of a
21 release of intercompany indebtedness?

Plaintiff's
Objection
31:20-25: lack of
personal
knowledge (FRE
602); objection
to form; vague
and ambiguous

22 A I don't know if that's generally
23 true, but I know it was more formal with the
24 international companies because of the
25 cross-border nature.

1 T. Hamzhepour

2 Q Okay. Just by way of example, why
3 would GMAC Residential Holding Company, LLC want
4 to release any more of the intercompany
5 indebtedness than required for the benefit of
6 GMACM to facilitate GMACM's negotiations with
7 Fannie Mae?

Plaintiff's
Objection
32:2-10:
lack of
personal
knowledge
(FRE 602)

8 MR. KERR: Objection.

9 A I don't think it would have a desire
10 to do that.

11 (Hamzhepour Exhibit 5 marked for
12 identification as of this date.)

13 Q Before you is Hamzhepour Deposition
14 Exhibit 5.

15 A Yes.

16 Q It's an e-mail, and there is an
17 attachment. I am interested in the attachment.

18 A Um-hum.

19 Q The attachment purports to be a draft
20 of an intercompany advance agreement between
21 Residential Funding Company, LLC, acting as
22 lender, and Residential Capital, LLC, as borrower.

23 Do you see that?

24 A Um-hum. Um-hum.

25 Q My question is: Was an intercompany

1 T. Hamzhehpour

2 agreement of this nature ever executed?

3 A I don't know. Was this one executed?

4 Q This one was not. It's a draft.

5 A I can't tell from this -- I don't
6 remember it. I don't -- well, I wouldn't hold in
7 my memory every execution of an agreement, but I
8 don't remember it, and this sounds like this was a
9 first draft, so I don't know if it was later
10 executed.

11 Q And I take it from your answer that
12 you don't have a recollection of why a -- at least
13 the Treasury folks were contemplating an
14 intercompany advance agreement between ResFund and
15 ResCap at this point?

16 A I don't remember why. This also
17 doesn't do anything to help prod my memory, but
18 there is not enough information here, so...

19 Q Okay. And who would know within the
20 debtors whether this agreement attached to
21 Hamzhehpour Exhibit 5 was ever executed?

22 A The Treasury team should know,
23 because they should have an executed copy of it in
24 their funding database. This is also -- actually,
25 this e-mail doesn't even relate to the attached

Plaintiff's
Objection
33:11-18:
lack of
personal
knowledg
e (FRE
602);
unduly
prejudicia
l (FRE
403)

1 T. Hamzhehpour

2 document, so, this e-mail refers to an
3 intercompany advance agreement between a U.K.
4 company and Residential Funding Company.

5 Q Yeah. I -- just for your benefit, I
6 see the text in the bottom paragraph is referring
7 to the attachment.

8 A Oh, okay, sorry about that. Sorry.
9 Just when I was reading it, it was like this
10 doesn't make sense. But you are right, it does --
11 it must have had two attachments, so...

12 Q Do you -- as I understand the
13 corporate allocation from Ally to the debtors,
14 there was -- as relates to GMACM, the corporate
15 allocation to GMACM and Residential Funding
16 Company, LLC, the allocation was made to
17 Residential Funding Company, LLC, and then there
18 was an intercompany to GMACM?

19 A An allocation of what? What
20 allocation are you talking about?

21 Q Corporate expense.

22 A Oh. I don't know.

23 Q Okay.

24 A I wouldn't know how they do that.
25 You would have to ask finance.

1 T. Hamzhehpour

2 Q Okay. Do you recall the practice of
3 allocating corporate expenses from Ally to
4 Residential Funding Company and GMACM changing at
5 any point in time?

6 A I don't remember being aware of it.
7 I knew generally that the parent allocated
8 expenses down to the subs, but I don't remember
9 having any knowledge or understanding of whether
10 they did it fairly or correctly or not.

11 Q Okay.

12 (Hamzhehpour Exhibit 6 marked for
13 identification as of this date.)

14 Q Before you is Hamzhehpour Exhibit 6.

15 A Yes.

16 Q It's an e-mail from -- covering the
17 first page is an e-mail from Mr. Young to

18 Mr. Marano. You are copied.

19 And he writes: "Tom, this is to give
20 you a heads-up on the most effective/quick
21 strategy we have to move cash out of RFC to
22 ResCap."

23 What do you recall -- strike that.

24 Was there an effort to evaluate ways
25 to move cash out of RFC sometime in late 2010?

Plaintiff's
Objection
35:11-36:3:
lack of
personal
knowledge
(FRE 602)

1 T. Hamzehpour

2 A Well, that's what this e-mail says,
3 so I imagine it was.

4 Q And do you recall -- other than what
5 the e-mail says, do you recall the matters
6 discussed in Hamzehpour Exhibit 6?

7 A Can I look at the rest of it --

8 Q Sure.

9 A -- because it will hopefully refresh
10 my memory. Okay. So, based on these attachments,
11 and the time frame, it does appear that there
12 were, you know, concerns about RFC's net worth and
13 discussions about how to manage as between RFC and
14 ResCap the cash balances and net worth.

15 Q And do you know, ultimately, what the
16 debtors determined to do to address the concerns
17 about RFC's net worth?

18 A I don't remember this in particular,
19 but the request for approval was to repay -- for
20 ResCap to repay a portion of an intercompany
21 payable and assume some liabilities. I don't know
22 if that actually happened or not, but it looks
23 like this was at least proposed to the ResCap
24 board.

25 Q Now, if you go to the talking

1 T. Hamzhepour

2 points --

3 A Um-hum.

4 Q -- that are the first exhibit, the
5 first attachment to the e-mail that is
6 Hamzhepour 6, there is a couple of different
7 suggested solutions. I'm interested in the bottom
8 solution, which is default on requirement.

9 A Um-hum.

10 Q And my question is: Is that a fair
11 summary of the consequences that would flow from
12 RFC defaulting on --

13 A On the HUD --

14 Q -- the suggested HUD net worth
15 requirement?

16 A The suggested HUD net worth.

17 MR. KERR: Objection.

18 A This, it looks like to me a
19 reasonable list of things that could happen if --
20 if RFC did not meet the HUD requirement.

21 MR. PERRY: Can we take a five-minute
22 break, Chuck?

23 MR. KERR: Sure. Sure, sure, sure.

24 THE VIDEOGRAPHER: The time is

25 11:03 a.m. We are off the record.

1 T. Hamzhehpour

2 (Recess taken.)

3 THE VIDEOGRAPHER: The time is 11:14

4 a.m. We are on the record.

5 BY MR. PERRY:

6 Q Ms. Hamzhehpour, could you go back to,
7 I think it's Westman 20, the 30(b)(6) notice that
8 I showed you at the outset of the deposition.
9 Westman 1.

10 A Yes.

11 Q Directing your attention to topic
12 two, romanette six.

13 A Yes.

14 Q Is it the case that the debtors will
15 not take the position that the intercompany claims
16 are worthless or meritless at confirmation?

17 MR. KERR: Objection.

18 A I don't understand the question.

19 Q Do the debtors intend to take a
20 position at confirmation about the value of the
21 intercompany claims?

Plaintiff's
Objection
38:19-39:9
Irrelevant
(FRE 401,
402)

22 A My understanding is that the position
23 is that the intercompany claims are being settled.

24 Q And they are being settled for no
25 value?

1 T. Hamzhepour

2 A Without any assignment of value.

3 Q Okay. But the debtors will not take
4 the position that the underlying claims themselves
5 are worthless or have no merit; correct?

6 MR. KERR: Objection.

7 A I don't -- I'm not sure that -- I
8 don't think I know the answer to that question,
9 actually.

10 MR. PERRY: I have no further
11 questions.

12 MR. KERR: Okay. Any other
13 questions?

14 MR. KOCHMAN: I'm going to have a few
15 questions on behalf of Wells Fargo, if we
16 could take like five minutes.

17 MR. KERR: Sure. Sure, sure, sure.

18 THE VIDEOGRAPHER: The time is
19 11:16 a.m. We are off the record.

20 MR. KERR: Let's just take another
21 break.

22 (Recess taken.)

23 THE VIDEOGRAPHER: The time is
24 11:23 a.m. We are on the record.

25

1 T. Hamzehpour

2 EXAMINATION

3 BY MR. KOCHMAN:

4 Q Good morning, Ms. Hamzehpour. My
5 name is Dave Kochman of Reed Smith.

6 A Good morning.

7 Q I represent Wells Fargo in its
8 capacity as third priority collateral agent, and I
9 will continue with all of the rules that were
10 previously abided by in this deposition. And I
11 just really have a few questions here.

12 I believe you testified earlier that
13 you have a familiarity with certain of the
14 underlying documents, and to be specific, I'm
15 talking about the indenture, the JSN security
16 agreement and the inter-creditor agreement.

17 A I'm aware that they are -- that they
18 exist, yes.

19 Q Have you reviewed those documents?

20 A Not in a long time.

21 Q When was the last time you recall
22 reviewing those documents?

23 A Probably when they were put in place.

24 Q Could you tell me your understanding
25 of the role of the third priority collateral agent

1 T. Hamzhehpour

2 in the context or as it relates to these
3 documents?

4 A My recollection is that the
5 collateral agent for whichever funding facility we
6 were working with had to be provided with certain
7 types of lien release documents in order to
8 release collateral as we were selling it or
9 otherwise disposing of it.

10 Q Was that your understanding with
11 respect to the JSN collateral?

12 A Yes. I think it applied
13 across-the-board to Ally, second lien and the
14 third lien.

15 Q Do you recall what documents were to
16 be provided to the third priority collateral agent
17 in order to effectuate the lien releases?

18 A Not in detail. I believe it varied
19 by collateral. Depending on what kind of
20 collateral and what was taking place, there were
21 different notices or certifications.

22 Q Did there come a time that you
23 yourself provided an opinion of counsel to effect
24 certain of the releases?

25 A I do believe that that did happen

1 T. Hamzehpour

2 from time to time. I don't think I was -- I don't
3 think it was always required, but I remember doing
4 it from time to time.

5 Q Okay. And in those times that you
6 recall doing it, what did you do to prepare your
7 certification of counsel?

8 A Spoke to my capital markets
9 attorneys, who would have been working directly on
10 the transaction, and gotten comfort from them that
11 they were comfortable with the documents and the
12 release, and I rely on that.

13 Q Do you recall if certain of the
14 documents -- strike that.

15 When you say you wanted to get
16 comfortable with the documents, what do you mean
17 by that?

18 A With whether it was appropriate to
19 give the certification that was in the opinion.

20 Q Okay. And what -- how would you
21 determine whether the certification would be
22 appropriate?

23 A By speaking to my -- the lawyers who
24 report to me, who worked directly with that unit,
25 understanding what it was they were asking me to

1 T. Hamzhehpour

2 sign, and getting any questions that I had
3 answered.

4 Q Do you have a recollection, in
5 providing your opinion of counsel, as to whether
6 or not you would be certifying that certain
7 provisions of the indenture agreement had been
8 satisfied?

9 A I don't remember the text of what the
10 opinions required or the certifications.

11 Q If I were to show you the indenture,
12 might that refresh your recollection?

13 A It might. If it has a template in
14 it, it's possible that -- yeah.

15 MR. KOCHMAN: Let's just go off the
16 record for a second?

17 THE VIDEOGRAPHER: The time is
18 11:27 a.m. We are off the record.

19 (Recess taken.)

20 THE VIDEOGRAPHER: The time is
21 11:29 a.m. We are on the record.

22 BY MR. KOCHMAN:

23 Q Ms. Hamzhehpour, I showed you
24 Exhibit G to the indenture entitled "Form Opinion
25 of Counsel for Release of Collateral." Did you

1 T. Hamzhehpour

2 have an opportunity to review that?

3 A Yes.

4 Q Did that refresh your recollection as
5 to the opinion that you would be providing in
6 the -- pursuant to that form document?

7 A The form -- yes. The form document
8 provides that the opinion is that the officer
9 certificate is in the form required by the
10 indenture, and that there aren't any other
11 documents required to be delivered to the
12 collateral agent in connection with this release.

13 So, it's says those two things.

14 Q And you have testified as to the
15 factual inquiry that you conducted before
16 providing this document?

17 A Yes.

18 Q Is there anything else that you did
19 beyond that?

20 A No.

21 Q Did you have an understanding as to
22 whether the third priority collateral agent was
23 going to rely conclusively upon your opinion of
24 counsel?

25 MR. KERR: Objection.

1 T. Hamzhehpour

2 A I don't know what they rely on. We
3 provide the documents that are required in the --
4 in the indenture, and I can't speak to anyone's
5 reliance on that.

6 Q Did you have an understanding as to
7 whether any other party would have an obligation
8 to investigate the underlying facts upon which the
9 opinion of counsel was resting?

10 MR. KERR: Objection.

11 A No, I don't. I don't know.

12 Q I'm sorry?

13 A I don't know.

14 (Continued on next page
15 with witness jurat.)

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1 T. Hamzehpour

2 MR. KOCHMAN: No further questions.

3 MR. KERR: Other questions? Good.

4 Then I think we are done then.

5 THE VIDEOGRAPHER: The time is

6 11:31 a.m. We are off the record.

7 oOo

8 I, TAMMY HAMZEHPOUR, the witness
9 herein, do hereby certify that the foregoing
10 testimony of the pages of this deposition to be a
11 true and correct transcript, subject to the
12 corrections, if any, shown on the attached page.

13
14 _____
15
16 Subscribed and sworn to before me this
17 _____ day of _____, _____.
18

19 _____
20
21 NOTARY PUBLIC
22
23
24
25

1 T. Hamzehpour

2 C E R T I F I C A T E

3 STATE OF NEW YORK)

4 : SS.

5 COUNTY OF NEW YORK)

6
7 I, BONNIE PRUSZYNSKI, a Notary
8 Public with and for the State of New York,
9 do hereby certify:

10 That TAMMY HAMZEHPOUR, the witness
11 whose deposition is hereinbefore set forth,
12 was duly sworn by me and that such deposition
13 is a true record of the testimony given by
14 the witness.

15 I further certify that I am not related
16 to any of the parties to this action by
17 blood or marriage, and that I am in no way
18 interested in the outcome of this matter.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand this 18th of October, 2013.

21
22 _____
23 Bonnie Pruszyński
24
25

T. Hamzhepour

I N D E X

WITNESS

PAGE

TAMMY HAMZEHPOUR

Examination by Mr. Perry

7

Examination by Mr. Kochman

39

E X H I B I T S

Hamzhepour Exhibit 1 EXAM10362088

12

Hamzhepour Exhibit 2 EXAM11316929-932

20

Hamzhepour Exhibit 3 RC40006568-571

24

Hamzhepour Exhibit 4 EXAM11148024

29

Hamzhepour Exhibit 5 RCUCCJSN10745612-620

32

Hamzhepour Exhibit 6 EXAM11150308-311

35

1 T. Hamzehpour

2 MR. KOCHMAN: No further questions.

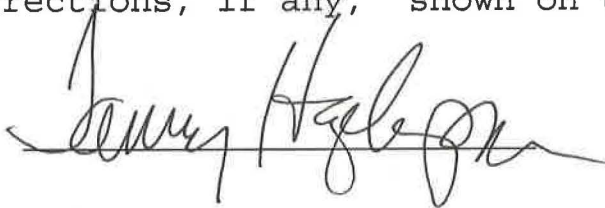
3 MR. KERR: Other questions? Good.

4 Then I think we are done then.

5 THE VIDEOGRAPHER: The time is
6 11:31 a.m. We are off the record.

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8 I, TAMMY HAMZEHPOUR, the witness
9 herein, do hereby certify that the foregoing
10 testimony of the pages of this deposition to be a
11 true and correct transcript, subject to the
12 corrections, if any, shown on the attached page.

13 
14
15

16 Subscribed and sworn to before me this
17 6th day of NOVEMBER, 2013.

18
19 
20

21 NOTARY PUBLIC

22 LAURA GUIDO
23 Notary Public, State of New York
24 No. 01GU6152891
25 Qualified in New York County
Commission Expires September 25, 2014


Deposition Errata Sheet

***In re Residential Capital, LLC, et al.,
Case No. 12-12020(MG)***

Deponent: Tammy Hamzehpour
Deposition Date: October 18, 2013

Citation	Testimony
3:17	Alexander Laurence Laurence <u>Lawrence</u> , ESQ
5:22	Alex Laurence Laurence <u>Lawrence</u> from Morrison & Foerster.
37:21-22	Can we take a five-minute break Chuck <u>Chet</u> ?
42:8-12	<u>I</u> spoke to my capital markets attorneys, who would have been working directly on the transaction, and gotten comfort from them that they were comfortable with the documents and the release, and I rely <u>relied</u> on that.

Date: 11-6-13

Signed: 
Tammy Hamzehpour